

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

Lillith St. Mary,

Plaintiff,

V.

Conn Appliances, Inc.,

Defendant.

Civil Action No.: 4:16-cv-2296

# COMPLAINT JURY

For this Complaint, Plaintiff, Lillith St. Mary, by undersigned counsel, states as follows:

## JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* ("TCPA"),

2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

## PARTIES

3. Plaintiff, Lillith St. Mary (“Plaintiff”), is an adult individual residing in Webster, Texas, and is a “person” as the term is defined by 47 U.S.C. § 153(39).

4. Defendant, Conn Appliances, Inc. (“Conn”), is a Texas business entity with an address of 4055 Technology Forest Boulevard, Suite 210, The Woodlands, Texas 77381-2008, and is a “person” as the term is defined by 47 U.S.C. § 153(39).

**FACTS**

5. Within the last year, Conn began calling Plaintiff's cellular telephone, number 832-xxx-9882, using an automatic telephone dialing system ("ATDS") and using a prerecorded voice.

6. When Plaintiff answered calls from Conn, she heard a prerecorded message.

7. In or around May 2015, Plaintiff requested that Conn stop calling her cellular telephone number.

8. Nevertheless, Conn continued to place automated calls to Plaintiff's cellular telephone number.

**COUNT I**  
**VIOLATIONS OF THE TCPA – 47 U.S.C. § 227, et seq.**

9. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

10. At all times mentioned herein, Defendant called Plaintiff's cellular telephone number using an ATDS and a prerecorded or artificial voice.

11. Defendant continued to place automated calls to Plaintiff's cellular telephone number despite knowing that it lacked consent to do so. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

12. The telephone number called by Defendant was assigned to a cellular telephone service for which Plaintiff incurs charges pursuant to 47 U.S.C. § 227(b)(1).

13. Plaintiff was annoyed, harassed and inconvenienced by Defendant's continued calls.

14. The calls from Defendant to Plaintiff were not placed for “emergency purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).

15. Plaintiff is entitled to an award of \$500.00 in statutory damages for each call made in negligent violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

16. Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 for each call made in knowing and/or willful violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff respectfully prays that judgment be awarded in Plaintiff’s favor and against Defendant as follows:

1. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
2. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
3. Such other and further relief as may be just and proper.

**TRIAL BY JURY DEMANDED ON ALL COUNTS**

Dated: August 1, 2016

Respectfully submitted,

By: /s/ Jenny DeFrancisco

Jenny DeFrancisco, Esq.  
CT Bar No.: 432383  
LEMBERG LAW LLC  
A Connecticut Law Firm  
43 Danbury Road  
Wilton, CT 06897  
Telephone: (203) 653-2250  
Facsimile: (203) 653-3424